



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 3, 2022

OFFICE OF
AIR AND RADIATION

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Capito:

Thank you for your letter of May 17, 2022, to the U.S. Environmental Protection Agency (EPA) requesting that EPA further extend the public notice and comment period associated with the proposed Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone NAAQS (Proposed Rule, Docket No. EPA-HQ-OAR-2021-0668). The Administrator asked that I respond on his behalf.

In consideration of multiple requests for an extension of the comment period beyond the original 61-day period from the date the Proposed Rule published in the *Federal Register*, which would have ended on June 6, 2022,¹ EPA already extended the comment period until June 21, 2022.^{2,3} In granting these requests, EPA acknowledges the scope of issues on which the Agency requests comment in the proposed rule's preamble and the substantial amount of technical information related to the proposed rule that the Agency has made available for public inspection.

EPA must address good neighbor obligations pursuant to 42 U.S.C. § 7410(a)(2)(D)(i)(I) as expeditiously as practicable and in alignment with the attainment schedule for downwind areas.⁴ EPA is working diligently to finalize a transport rule in advance of the 2023 ozone season and with sufficient lead time for sources to meet additional proposed compliance obligations beginning in the 2026 ozone season.⁵ Therefore, EPA must balance the importance of ensuring the public has meaningful opportunity to comment with Congress' direction for expeditious action to address good neighbor obligations.⁶

¹ 87 FR 20036 (April 6, 2022).

² This letter does not reflect any final determination regarding the content or timing of a final action, nor does this letter preclude EPA from later determining that an additional opportunity for public comment may be warranted. This letter does not constitute an appealable determination. *See* 42 U.S.C. § 7607(d)(8).

³ 87 FR 29108 (May 12, 2022).

⁴ *See Wisconsin v. EPA*, 938 F.3d 303, 313-20 (D.C. Cir. 2019).

⁵ *See* 87 FR at 20039-40, 20100-102.

⁶ The original comment period met the minimum requirements of the Clean Air Act. *See* 42 U.S.C. § 7607(d)(5) and (h). EPA held a full-day public hearing on April 21, 2022.

EPA has provided substantive information to support the public comment process for this proposed rule, even before the proposal published in the *Federal Register* and the docket opened. For example, on January 19, 2022, we released on our website and notified a wide range of stakeholders of the availability of both the modeling results for 2023 and 2026 (including contribution data) along with many key underlying input files.⁷ Further, the 2016-based meteorology and boundary conditions used in the modeling have been available through the 2016v1 platform, which was used for the Revised Cross State Air Pollution Rule (CSAPR) Update (proposed in the fall of 2020). The updated emissions inventory files used in the current modeling were publicly released September 21, 2021, for stakeholder feedback, and have been available on our website since that time.⁸ The CAMx modeling software that we used has likewise been publicly available for over a year. CAMx version 7.10 was released by the model developer, Ramboll, in December 2020.

EPA also took steps to enhance public awareness and access to key materials associated with the proposed rule in the weeks before it published in the *Federal Register*. We conducted outreach efforts, including stakeholder notification calls and emails, associated with this proposal on March 10, 2022. On March 11, 2022, EPA posted on our website materials associated with the proposed rulemaking, including a prepublication version of the preamble and regulatory text, technical support documents, and other supporting materials,⁹ allowing the public to begin reviewing these materials. To further enhance public understanding of the proposal, EPA held widely-attended stakeholder informational webinars on the proposed rule on March 29, 30, and 31, 2022. EPA staff remain available to answer clarifying technical questions, and the Agency has provided, and will continue to provide, timely responses to inquiries related to the proposed rule.

EPA is committed to implementing the good neighbor provision as expeditiously as practicable and by the applicable attainment dates for downwind areas. If finalized as proposed, the rule would result in substantial reductions of summertime ozone concentrations and would provide important environmental and public health benefits. EPA believes that granting the prior requests by extending the comment period to June 21, 2022, enhances the public's ability to provide meaningful feedback on the proposed rule while allowing the Agency to proceed with timely development of the final rule, and that providing an extension to the comment period beyond the previously extended June 21, 2022, date would delay that development.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyil in EPA's Office of Congressional and Intergovernmental Relations at thundiyil.karen@epa.gov or (202) 597-1142.

Sincerely,



Joseph Goffman
Principal Deputy Assistant Administrator

⁷ See <https://www.epa.gov/scram/photochemical-modeling-applications>.

⁸ See <https://www.epa.gov/air-emissions-modeling/2016v2-platform>.

⁹ See <https://www.epa.gov/csapr/good-neighbor-plan-2015-ozone-naaqs>.